



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 25, 1996

Honorable Nathan B. Rheinlander  
Comal County Attorney  
150 North Sequin, Suite 318  
New Braunfels, Texas 78130

OR96-0080

Dear Mr. Rheinlander:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30043.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within 10 days after the governmental body's receipt of the request for information. We realize, however, that the short time frame prescribed by section 552.301 may occasionally impose a substantial burden on governmental bodies seeking to comply with the act. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, it has been our policy to give the governmental body an opportunity to complete the request. On December 13, 1995, we asked you for copies of the records at issue. To date we have not received the requested copies.

The Open Records Act places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Without the information requested from you, your request for an open records decision remains incomplete. Consequently, we find that you have not met your burden under sections 552.301 through 552.303 of the Government Code and that the information is presumed to be public. Open Records Decision No. 195 (1978).

This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records

Decision No. 150 (1977). In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). If you have any questions regarding this matter, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/ch

Ref.: ID# 30043

cc: Ms. Pamela B. Myers  
Citizens for Better Justice  
P.O. Box 1355  
Canyon Lake, Texas 78130